STATE OF ILLINOIS HUMAN RIGHTS COMMISSION

IN THE MATTER OF:)			
ROBERT WINSTON,)			
Complainant, and IT'S TIME FOR A CHANGE, RMC, Respondent.)))))))))	CHARGE NO(S): EEOC NO(S): ALS NO(S):	21BA80009	
<u>NOTICE</u>				
You are hereby notified that the Illinois exceptions to the Recommended Order and pursuant to Section 8A-103(A) and/or 8B-10 5300.910 of the Commission's Procedural Rul become the Order and Decision of the Commission	Dec 3(A) es, th	ision in the above named of the Illinois Human Rig	case. Accordingly,	
STATE OF ILLINOIS HUMAN RIGHTS COMMISSION)	Entered this 9 th day	of February 2010	
		N. KEITH CHAMBERS EXECUTIVE DIRECTOR	······	

STATE OF ILLINOIS HUMAN RIGHTS COMMISSION

IN THE MATTER OF:)
ROBERT WINSTON,)) Charge No. 2009CE0772
Complainant,) Charge No. 2008CF0772) EEOC No. 21BA80009) ALS No. 8-0351
and)
IT'S TIME FOR A CHANGE, RMC,)) Judge Reva S. Bauch
Respondent.)

RECOMMENDED ORDER AND DECISION

This matter is before the Commission on Respondent's Motion to Dismiss for Want of Prosecution. Complainant had an opportunity to file a response but failed to do so. Accordingly, this matter is now ready for disposition.

The Illinois Department of Human Rights ("Department") is an additional statutory agency that has issued state actions in this matter. Therefore, the Department is an additional party of record.

FINDINGS OF FACT

The following facts were derived from the record file in this matter.

- 1. This matter was set for an initial status hearing on October 9, 2008.
- 2. On October 9, 2008, Respondent appeared. Complainant failed to appear.
- 3. This matter was set for another status hearing on November 20, 2008.
- 4. Per the October 9, 2008 order, Respondent filed a Proof of Service with the Commission certifying that a copy of the October 9, 2008 order had been served upon Complainant.
- 5. On November 20, 2008, Respondent appeared. Complainant failed to appear.

- 6. On November 20, 2008, the matter was set for another status hearing on December 4, 2008.
- 7. Per the November 20, 2008 order, Respondent filed a Proof of Service with the Commission certifying that a copy of the November 20, 2008 order had been served upon Complainant.
- 8. On December 4, 2008, Respondent appeared. Complainant failed to appear.
- 9. Per the December 4, 2008 order, Respondent filed a Proof of Service with the Commission certifying that a copy of the December 4, 2008 order had been served upon Complainant.
- 10. Respondent filed its Motion to Dismiss on December 11, 2008.
- As per the December 4, 2008 order, Complainant had until December 31, 2008 to file a response.
- Respondent filed a Proof of Service with the Commission certifying that the
 Motion was served on Complainant on December 11, 2008.
- 13. Complainant has not filed a response to the Motion.

CONCLUSIONS OF LAW

- 1. A complaint may be dismissed when a party fails to appear at a scheduled hearing without requesting a continuance reasonably in advance or unreasonably refuses to comply with a Commission Order or otherwise engages in conduct which unreasonably delays or protracts proceedings.
- Since Complainant has failed to appear at all scheduled status hearings and has
 failed to comply with several Commission Orders, the appropriate sanction is
 dismissal of the Complaint, and the underlying charge, with prejudice.

<u>DISCUSSION</u>

Under Commission procedural rules, an Administrative Law Judge may recommend to the Commission that a complaint be dismissed where a party fails to

appear at a scheduled status hearing, unreasonably refuses to comply with a

Commission Order or otherwise engages in conduct which unreasonably delays or

protracts proceedings. See 56 III. Admin. Code §5300.750(e).

A fundamental principle governing practice before the Commission is that

complainants must diligently pursue their cases once they are docketed with the

Commission. Complainant has failed to appear for all scheduled status hearings. He

has also failed to comply with several Commission Orders. It appears that Complainant

has simply abandoned his claim in this case. As such, it is appropriate to dismiss his

Complaint, with prejudice. Aceves and Everlast Concrete, Inc. and Artech Concrete,

Inc., IHRC, 12187, May 18, 2005.

In addition, Complainant has not filed any response to the Motion.

Commission has held that a dispositive motion should be granted where it appears on its

face to be valid and the Complainant has failed to file a response. Jones and

Burlington Northern Railroad, 25 Ill. HRC Rep. 101 (1986).

RECOMMENDATION

I recommend the Commission dismiss the Complaint, and the underlying charge,

with prejudice.

HUMAN RIGHTS COMMISSION

BY: _

REVA S. BAUCH DEPUTY CHIEF ADMINISTRATIVE LAW JUDGE

ADMINISTRATIVE LAW SECTION

ENTERED: January 8, 2009